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WATER RESOURCES
WESTERN REGION

James C. Tucker, ISB No. 2038
Lead Counsel
Nathan F. Gardiner, ISB No. 4104
Senior Attorney
IDAHO POWER COMPANY
1221 West Idaho Street
Boise, ID 83702-5627
Telephone: (208) 388-2112
Facsimile: (208) 388-6935

Attorneys for Idaho Power Company

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 61-12256)

**PROTEST AND PETITION
FOR HEARING**

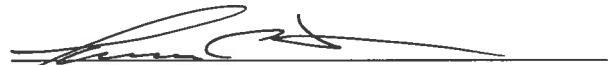
APPLICANT:)
Intermountain Sewer & Water Corp.)
_____)

COMES NOW, Idaho Power Company, (hereinafter "Idaho Power"), by and through its undersigned attorney, and hereby files this Protest and Petition for Hearing regarding the Idaho Department of Water Resources' ("IDWR") reinstatement of the application for water right No. 61-12256 as advertised on or about July 20 and 27, 2011. In accordance with Idaho Code § 42-203A(4), Idaho Power lodges this protest for the reason that insufficient ground water resources exist to fulfill the municipal and fire protection water right sought by the Applicant in an amount of 13.76 cfs. Furthermore, the area within which the applicants seek to acquire this ground water right lies within an already designated Ground Water Management Area. Additionally, the applicant must demonstrate that the ground water aquifer from which it intends to withdraw the water to fulfill this right, is not hydrologically connected to the surface waters of the Snake

River. If the waters are hydrologically connected, then the water right would be subject to the conditions imposed on the State of Idaho as a result of the Swan Falls Reaffirmation Agreement of 2009.

Idaho Power has presented similar questions to the Department with regard to other pending applications and files this protest in an effort to ensure that this, and those pending, applications are considered and processed in a consistent manner. (See attached letter of November 20, 2010 to Gary Spackman).

Dated this 5th day of August, 2011.

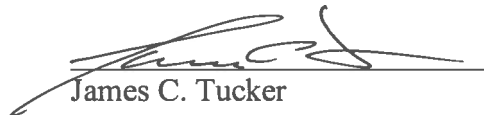
By: 
James C. Tucker, ISB No. 2038
IDAHO POWER COMPANY
1221 West Idaho Street
Boise, ID 83702-5627
Telephone: (208) 388-2112
Facsimile: (208) 388-6935

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of August, 2011, I served a true and correct copy of the foregoing document, **PROTEST AND PETITION FOR HEARING**, by hand delivery on:

Interim Director Gary Spackman
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

Gregory B. Johnson
President
Intermountain Sewer & Water Corp.
P.O. Box 344
Meridian, Idaho 83680


James C. Tucker

\$25 - received 8/5/2011 by JMH #W039506
DB



James C. Tucker
jtucker@idahopower.com
208-388-2112

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WESTERN REGION

*Rec'd with
Notice of Protest.*

November 2, 2010

Gary Spackman
Director
Idaho Department of Water Resources
P.O. Box 83270
Boise, Idaho 83702-0098

Re: Water Right Application Nos. 61-12096 (Nevid LLC) & 61-12239
(Clear Springs Ranch LLC)

Dear Director Spackman:

Idaho Power Company recently protested water right application no. 61-12096, a municipal ground water claim for 20.48 cfs and also filed a petition to intervene in the protest proceedings involving water right claim no. 61-12239, a municipal claim for 0.35 cfs. Intervention in the latter proceeding was recently denied by the hearing officer (Keen) by order dated October 21, 2010. These water right claims, as well as several other pending applications, are within the Mountain Home Ground Water Management Area, near the boundaries of that area, or within or near the boundaries of the Cinder Cone Critical Ground Water Area. The Company's interest in these pending applications stems from its understanding that there is considerable uncertainty as to whether ground water flows in these areas influence flows in the Snake River in the vicinity of the Murphy gage.

This uncertainty is reflected in a memorandum dated February 24, 2009, by Craig Tesch and Sean Vincent of IDWR staff to your office evaluating the potential water availability to supply various ground water applications in the I-84 corridor from Boise to Mountain Home. In that memorandum, the authors conclude that the total combined appropriation under pending applications, as of October 9, 2008, to appropriate ground water in the I-84 corridor greatly exceeds estimates for the reasonably anticipated rate of future natural recharge to the aquifer in the vicinity of Mountain Home. If this is the case, and those applications are approved, ground water levels in this area may continue to decline, which raises the issue of whether there is sufficient ground water available to fulfill the pending applications. Of particular concern to the Company, however, is the conclusion in the memorandum to the effect that the tributary underflow component of the ground water in this area is subject to a "large range of uncertainty" and is not well defined due to insufficient hydrologic data, which raises the additional uncertainty of whether, and to what extent, ground water in that area may be tributary to the Snake River.

The State of Idaho and Idaho Power Company are continuing to work cooperatively in exploring and addressing various issues identified in the 2009 Framework Reaffirming the Swan Falls Settlement. Among those issues are the review and consideration of appropriate mechanisms to enable the State to meet its obligation to take reasonable steps to ensure that the average daily flows established at the Murphy gage are maintained, as well as the consideration of other water management issues associated with the trust and non-trust water areas. In the Company's view, the issues identified by the Tesch and Vincent memorandum and their input on pending ground water right applications in the Mountain Home area fall within this category.

The Company would like to work with the Idaho Department of Water Resources to better understand the significance of the issues raised by the Tesch and Vincent memorandum in an effort to ensure that pending applications do not adversely affect Swan Falls minimum flows. The issues raised by that memorandum are critical to the resolution of each of these pending applications and the Company would expect the Department to consider and address these issues and, consistent with the Swan Falls Settlement, take reasonable steps to ensure that the minimum flows at Swan Falls are maintained and not affected by these or other applications.

In the Company's view, it should not be necessary to burden each of these water right proceedings with protests by the Company to ensure that these issues are appropriately addressed. We would hope that the Department would concur and would appreciate being advised if that is not the case. The Company will be happy to meet and discuss these matters further.

Sincerely,

A handwritten signature in dark ink, appearing to read "James C. Tucker", with a long horizontal flourish extending to the right.

James C. Tucker

JCT:sh

cc: Norman Semanko (#61-12096)
Michael Creamer (#61-12239)